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Letter dated 17 May 2017 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, submitted pursuant to paragraph 16 of Security Council resolution 1966 (2010).

I would be grateful if the present letter and its annexes could be circulated to the members of the Security Council.

(*Signed*) Theodor **Meron**

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Annex I

[Original: English and French]

Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 16 November 2016 to 15 May 2017

1. The present report, the tenth in a series, is submitted pursuant to Security Council resolution 1966 (2010), by which the Council established the International Residual Mechanism for Criminal Tribunals, and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.[1] Certain information contained in the present report is submitted pursuant to the Council's request in paragraph 20 of its resolution 2256 (2015).

I. Introduction

2. The Security Council, by its resolution 1966 (2010), established the International Residual Mechanism for Criminal Tribunals to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes, after the closure of the two Tribunals. Pursuant to resolution 1966 (2010), the Mechanism shall operate for an initial period of four years, and subsequently for periods of two years, following reviews of its progress, unless the Council decides otherwise.

3. In accordance with its mandate, and as set forth below, the Mechanism has assumed responsibility for a number of functions of both International Tribunals, including with regard to a range of judicial activities, the enforcement of sentences, the resettlement of acquitted and released persons, the protection of victims and witnesses and the management of archives.

4. As the International Tribunal for the Former Yugoslavia progressively finalizes its work, the Mechanism continues to work closely with the principals and staff of that Tribunal to ensure a smooth and efficient transition of the remaining functions and services of the Tribunal to the Mechanism, fully consistent with the projected closure of the Tribunal at the end of 2017.

5. The Mechanism is guided in its activities by the Security Council's vision of it as a small, temporary and efficient structure, the functions and size of which will diminish over time, with a small number of staff commensurate with its reduced functions. To that end, the Mechanism continues to draw upon the best practices of and lessons learned from both International Tribunals, and from other tribunals, to actively pursue new ways to improve its operations, procedures and working methods, and to maintain flexibility in staff assignments. By doing so, the Mechanism seeks to maximize effectiveness and efficiency across both of its branches, while maintaining relatively low staffing levels.

6. The Mechanism is mindful of the temporary nature of its mandate. Wherever possible, detailed projections of the duration of residual functions entrusted to the Mechanism are reflected in the present report, in accordance with Security Council

[1] Unless otherwise specified, figures discussed in the present report are accurate as at 15 May 2017.

resolution 2256 (2015). Such projections are based on available data and, as a consequence, at the present stage of the Mechanism's work, are both limited in nature and subject to modification in the event of evolving circumstances.

II. Structure and organization of the Mechanism

7. In accordance with its statute (see Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals — the President, the Prosecutor and the Registrar — who have responsibility over two branches, one located in Arusha, in the United Republic of Tanzania, and the other in The Hague, in the Netherlands. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda. The Hague branch commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia.

A. Organs and principals

8. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: (a) the Chambers, (b) the Prosecutor, and (c) the Registry, to provide administrative services for the Mechanism. The workloads of the Chambers and the Registry are set forth below.

9. The President of the Mechanism is Judge Theodor Meron. The Prosecutor is Serge Brammertz. The Registrar is Olufemi Elias, who took office during the reporting period, on 1 January 2017.

B. Judges

10. Article 8 of the statute of the Mechanism provides that the Mechanism shall have a roster of 25 independent judges. Pursuant to article 8, paragraph 3, of the statute, judges "shall only be present at the seats of the branches of the Mechanism as necessary at the request of the President to exercise the functions requiring their presence. In so far as possible, and as decided by the President, the functions may be exercised remotely".

11. In furtherance of the Mechanism's effective and transparent management, and in consultation with the other judges, the President revised internal processes regarding judicial remuneration and case management during the reporting period. He also continued his practice of providing regular written updates and briefings to his fellow judges on matters related to the work of the Chambers and of the Mechanism as a whole.

12. In a letter dated 5 October 2016 (S/2016/841), the President of the Mechanism informed the President of the Security Council of the arrest, on or about 21 September 2016, of Judge Aydin Sefa Akay, a Turkish national, by law enforcement officials of the Government of Turkey in relation to allegations of conduct connected to the acts of 15 July 2016 directed against the constitutional order of Turkey. Judge Akay was, at the time of his arrest, carrying out his functions for the Mechanism, having been assigned on 25 July 2016 to a bench of the Appeals Chamber in the still-pending review case *The Prosecutor v. Augustin Ngirabatware*, and accordingly enjoyed, and continues to enjoy, diplomatic immunity pursuant to article 29 of the statute of the Mechanism. To date, however, and notwithstanding both the formal assertion of his diplomatic immunity by the United Nations and, as set forth below, the issuance of a judicial order to the Government of Turkey to

cease all legal proceedings against Judge Akay and to release him, he remains in detention and subject to ongoing proceedings in the domestic courts.

13. In a letter dated 9 March 2017 (S/2017/204), the President of the Mechanism notified the Security Council of the failure of Turkey to comply with its obligations, under article 28 of the statute of the Mechanism, to cooperate with the Mechanism and to comply without undue delay with a judicial order issued by the Mechanism. The lack of compliance on the part of Turkey with a binding judicial order and the continued detention of Judge Akay prevent the Appeals Chamber bench from reaching a decision on the pending request for review, the postponement of which has materially impacted the conduct of the proceedings, with corresponding implications for the fundamental rights of the applicant.

14. The situation also has broader and serious implications for the Mechanism's ability to carry out its core judicial functions in accordance with the remote-judging model adopted by the Security Council, pursuant to which, for the most part, judges carry out their functions in their State of nationality. It is therefore essential for the matter to be resolved as soon as possible in accordance with the applicable international legal framework, so that the Mechanism may discharge the functions entrusted to it by the Council in full conformity with resolution 1966 (2010) and the statute of the Mechanism.

C. The branches

15. The Government of the United Republic of Tanzania continues to cooperate with the Mechanism, in line with the headquarters agreement for the Arusha branch, which entered into force on 1 April 2014. The agreement between the United Nations and the Netherlands concerning the headquarters of the branch of the Mechanism in The Hague entered into force on 1 September 2016, and also applies mutatis mutandis to the International Tribunal for the Former Yugoslavia.

16. Following the inauguration on 25 November 2016 of the new premises of the Mechanism at the Arusha branch by the Vice-President of the United Republic of Tanzania, Samia Suluhu Hassan, the Arusha-based staff of the Mechanism moved into the premises on 5 December. The new premises were completed within budget. The construction was undertaken by a local company following a rigorous procurement process, maximized the usage of local materials and building methods and benefited from best practices and lessons learned in other United Nations capital projects. At the beginning of December 2016, the project entered into its post-construction phase, a period of 12 months that includes the completion of required remedial works, the appropriate recovery of direct and indirect costs arising from delays where economically feasible,[2] the completion of the transition from project management to facilities management and the final closure of the project account. In that context, particular attention is being paid to correcting certain technical defects of the facility constructed to host the archives of the International Criminal Tribunal for Rwanda. The Mechanism continues to be deeply grateful to the United Republic of Tanzania for its steadfast support for the completion of the project, alongside its generous provisions of land for the site, a permanent road to the site and connections for utilities, in particular water, electricity and Internet connections.

17. The Arusha sub-office in Kigali continues to provide protection and support services to witnesses and to support the activities of the monitors of the cases of the International Criminal Tribunal for Rwanda that have been referred to Rwanda, pursuant to article 6 of the statute of the Mechanism.

[2] Pursuant to General Assembly resolution 70/258, para. 7.

18. The Hague branch of the Mechanism is co-located with the International Tribunal for the Former Yugoslavia. The Mechanism has a strong preference, based on efficiency and cost-effectiveness, for remaining at its current premises after the closure of the Tribunal. Technical discussions and negotiations with the authorities of the host State and the owners of the premises are ongoing and progressing.

D. Administration and staffing

19. The basic requirements for a small, self-standing Mechanism administration were developed in cooperation between the Mechanism and the International Tribunals and included in the Mechanism's 2014-2015 and 2016-2017 budgets, as approved by the General Assembly. The recruitment of the Mechanism's administrative staff, in line with those requirements, has occurred in phases as the International Criminal Tribunal for Rwanda has closed and the International Tribunal for the Former Yugoslavia downsizes, gradually transferring administrative functions to the Mechanism. As a result, by the end of 2017, the Mechanism will be fully independent. The phased transfer of administrative functions and the extensive use of double-hatting have avoided the duplication of resources and maximized economies of scale.

20. In the meantime, the Human Resources, Budget and Finance, Procurement, Information Technology, Security and General Services Sections of the International Tribunal for the Former Yugoslavia have continued to perform their functions for the Tribunal and for both branches of the Mechanism. They have done so in accordance with the plan for the transfer of administrative functions to the Mechanism and supported by a limited number of Mechanism administration staff, commensurate with the Mechanism's size.

21. On 31 July 2016, the mandate of the liquidation team for the International Criminal Tribunal for Rwanda concluded. After assuming full responsibility on 1 August 2016 for all pending administrative and financial matters pertaining to that Tribunal, the Mechanism continues to work towards their finalization, including by preparing financial statements of the International Criminal Tribunal for Rwanda for 2016, processing pending entitlements and vendor claims and cooperating with the Board of Auditors on matters related to the International Criminal Tribunal for Rwanda. While the majority of those tasks have been concluded, it is expected that the Mechanism, as the legal successor to the International Criminal Tribunal for Rwanda, will continue to deliver such services as additional matters arise.

22. The Mechanism has a vacancy rate of only 4 per cent for its continuous posts. As at 25 April 2017, 169 of the 176 approved continuous posts for the biennium have been filled in order to carry out the Mechanism's continuous functions. An additional 254 personnel are serving as general temporary assistance to assist with ad hoc needs, including judicial work, litigation and transition issues. Those positions are short-term in nature and, consistent with the flexible staffing structure of the Mechanism, the number of staff will fluctuate depending on the relevant workload. Since the commencement of the work of the Mechanism, recruitment has occurred in full respect of all applicable rules, and no case has been brought before the Organization's internal justice system.

23. The Mechanism's continuous and general temporary assistance positions include nationals of 69 States: Albania, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Burundi, Cameroon, Canada, China, the Congo, Croatia, Cuba, Cyprus, Czechia, the Democratic Republic of the Congo, Denmark, the Dominican Republic, Egypt, Ethiopia, Fiji, France, Germany, Ghana, Guatemala, Guinea, Haiti, Indonesia, Iraq, Ireland, Israel,

Italy, Jamaica, Kenya, Latvia, Lebanon, Liberia, Madagascar, Malaysia, Mali, Nepal, the Netherlands, New Zealand, the Niger, Nigeria, Pakistan, the Philippines, Poland, the Republic of Korea, Romania, the Russian Federation, Rwanda, Samoa, Senegal, Serbia, Sierra Leone, South Africa, the Sudan, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America and Zimbabwe.

24. Fifty-five per cent of professional staff are women, surpassing the Secretary-General's gender parity goals. In addition, the Mechanism has in place focal points for gender issues; sexual exploitation and abuse; lesbian, gay, bisexual and transgender concerns; and diversity and inclusion issues.

25. Further details concerning the staffing of the Mechanism by division are reflected in enclosure 1 to the present report.

26. It should be noted that the Mechanism has continued to rely heavily on double-hatting arrangements with the International Tribunal for the Former Yugoslavia during the reporting period. The approved budget levels take into account the support provided by staff members charged against posts of the Tribunal under those arrangements. Further details and a breakdown of the Mechanism's costs, presented in terms of funds committed, are set forth in enclosure 2.

E. Legal and regulatory framework

27. Having established a structure to govern its activities, the Mechanism continues to develop rules, procedures and policies that harmonize and build upon the best practices of both International Tribunals, as well as its own practice, in order for the Mechanism to best achieve its mandate in a lean and efficient fashion.

28. During the reporting period, the President has considered and provided feedback to the Registry on a variety of draft guidelines and policies, including with respect to translation, interpretation and occupational safety and health.

29. Furthermore, and in consultation with the President, the Registry continued to work on the establishment of the Mechanism's legal aid regulatory framework through the adoption of various remuneration policies in 2016. The Remuneration Policy for Persons Representing Indigent Accused in Trial Proceedings before the Mechanism for International Criminal Tribunals was adopted on 8 December 2016. One additional remuneration policy is being developed, and once that is adopted the Mechanism's regulatory framework for legal aid will be complete.

30. At present, there are 30 public legal and regulatory instruments and policies in effect at the Mechanism, as well as a number of internal guidelines and operating procedures. During the reporting period, the Mechanism has continued to develop and improve the procedures and policies that govern its administrative activities.

III. Judicial activities

31. During the reporting period, the Mechanism has been seized of a number of complex matters. The President and the judges have continued to engage in a wide variety of judicial activity, issuing 152 decisions and orders during the period. In accordance with article 8, paragraph 3, of the statute of the Mechanism, judicial activity was primarily carried out remotely. The President assigned matters to judges based on an equitable distribution of workload. All of the judges on the

roster are collectively supported by a lean Chambers team of 25 staff distributed across both branches of the Mechanism.

32. Of the 152 decisions and orders issued during the reporting period, 79 (or approximately 52 per cent) related to requests for access to confidential material or for the variation of protective measures. The requests were made primarily by prosecution authorities in national jurisdictions but also included requests from accused or appellants in pending cases in relation to their defence or appeals or from convicted persons seeking information in relation to possible requests for review. All such requests were primarily adjudicated by single judges working remotely or by the presiding judge in a pending case and typically involved the issuance of one or more preliminary orders prior to the issuance of the final decision. Although it is not possible to fully foresee when, and how often, requests related to protective measures will arise, as recognized in the report of the Secretary-General preceding the establishment of the Mechanism (S/2009/258), it is anticipated that requests for access to confidential material or the variation of protective measures will continue to be filed so long as national authorities continue to investigate and prosecute cases in domestic jurisdictions. In addition, accused or appellants will likely continue to file such requests while their cases are pending, as indicated below, and convicted persons are likely do so until the conclusion of their sentences.

33. Judicial work was also carried out remotely by single judges in relation to other types of motions, including, for example, requests for the disclosure of exculpatory material or investigation into allegations of false testimony or contempt. As the Mechanism has a continuing obligation to safeguard the administration of justice, its duty to investigate and prosecute allegations of false testimony or contempt, subject to the provisions of article 1, paragraph 4, of the statute, will continue until its closure.

34. In addition to the above, the Mechanism judges continued their work on trials, appeals and requests for review related to the core crimes enumerated in the statute as set forth below.

35. In the case of Jovica Stanišić and Franko Simatović, trial preparation hearings were held on 19 February, 23 May, 28 September and 14 December 2016 and on 7 April 2017. In addition, the Trial Chamber held hearings on 13 December 2016 and 2 February 2017 to hear expert medical evidence in order to assist it in formulating the modalities for trial to accommodate Mr. Stanišić's health conditions. The pretrial phase of the case is coming to a conclusion, and the Trial Chamber currently expects to convene a pretrial conference on 17 May 2017. Subject to the outcome of the hearing and any other pending litigation, it is envisioned that the trial will commence shortly thereafter or by the end of June 2017. That step will mark a milestone for the Mechanism as a judicial institution.

36. The appeals by Radovan Karadžić and the Prosecution against the trial judgment issued on 24 March 2016 by a Trial Chamber of the International Tribunal for the Former Yugoslavia in the *Karadžić* case continued during the reporting period. The Trial Chamber had found Mr. Karadžić guilty of genocide, crimes against humanity and violations of the laws and customs of war, and sentenced him to 40 years of imprisonment. In their notices of appeal, filed on 22 July 2016, Mr. Karadžić and the Prosecution presented a total of 54 grounds of appeal. Citing the unprecedented breadth and complexity of the case, the large amount of evidence on the record, the length of the trial judgment (the longest ever issued by the International Tribunal for the Former Yugoslavia or any other international criminal tribunal), and the complexity of the issues raised on appeal, the parties requested that the Appeals Chamber grant extensions of time for the briefing process. The Appeals Chamber partly granted the requests, allowing a total of 217 days of extension for

the filing of the notices of appeal and the appeal, response and reply briefs. The briefing process concluded on 6 April 2017 with the filing of the parties' reply briefs. As set forth below, accurate predictions as to completion can only be made at the conclusion of briefing on appeal. In view of the magnitude and complexity of the case, as evidenced by the now complete appellate briefing as well as the extended briefing period, the initial, pre-briefing estimate of three years for the completion of the case has been adjusted to completion of the case by the end of 2019, that is, a total period of three years and nine months for the completion of the case from the issuance of the trial judgment to the delivery of the appeal judgment. At the current stage of the proceedings, all the judges on the bench in the case are carrying out their work remotely, with the exception of the President, who is presiding.

37. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the case of Vojislav Šešelj, finding him not guilty on all counts. The Prosecution filed its notice of appeal on 2 May 2016 and its appeal brief on 29 August 2016, arguing that the Trial Chamber had erred in law by failing to deliver a reasoned judgment and that it had erred in fact by acquitting Mr. Šešelj. The Prosecution has requested that the Appeals Chamber revise the trial judgment and find Mr. Šešelj guilty or, in the alternative, that it reverse the judgment of acquittal and order a retrial. On 8 July 2016, the President of the Mechanism, as pre-appeal judge, authorized Mr. Šešelj in the circumstances of the case to file his response brief, if any, within 80 days of the receipt of the Bosnian/Croatian/Serbian translation of the complete trial judgment, including all appended judicial opinions and the Prosecution's appeal brief in Bosnian/Croatian/Serbian. In accordance with the order of the pre-appeal judge, Mr. Šešelj submitted his response brief on 19 December 2016 in Bosnian/Croatian/Serbian and the English translation was filed on 7 February 2017. The briefing process concluded on 22 February 2017 with the filing of the Prosecution's reply brief. Preparations are currently under way for a hearing, and a judgment is expected by the end of 2017 or in the first part of 2018. The updated timeline is a year less than was initially forecast, resulting from sooner than expected translations of the trial judgment and the response brief, and the need for only minimal extensions of time in the briefing process. At the current stage of the proceedings, all the judges on the bench in the case are carrying out their work remotely, with the exception of the President, who is presiding.

38. On 8 July 2016, Augustin Ngirabatware filed a request for review of his judgment. Briefing has concluded in the matter, and it is pending consideration by the bench upon the timely resolution of the situation of Judge Akay, a member of the bench, as set forth above. On 31 January 2017, the pre-review judge ordered the Government of Turkey to cease all legal proceedings against Judge Akay and to take all necessary measures to ensure his release from detention no later than 14 February 2017. On 9 March 2017, the President notified the Security Council of non-compliance by the Government of Turkey with that order. Upon the resolution of the situation of Judge Akay, if the review is authorized by the Appeals Chamber, a hearing will be scheduled at the earliest opportunity to consider the merits of the request. As long as Judge Akay remains detained, it is neither possible to reach a decision on the authorization of review nor to give a projection for the completion of the matter.

39. During the reporting period, the President of the Mechanism, pursuant to his authority in the area of enforcement of sentences, issued four decisions in response to requests for early release as well as a number of other decisions. He is currently seized of a number of other confidential enforcement matters. In reaching decisions on certain enforcement matters, the President consults the judges of the sentencing Chamber who are judges of the Mechanism, as applicable, through remote procedure.

40. During the reporting period, the President also issued a number of additional orders and decisions, including one decision related to requests for the revocation of an order referring a case to Rwanda and two decisions related to requests for review of administrative decisions. Moreover, the President issued 31 assignment orders: 23 were assignments to single judges, 1 to a Trial Chamber and 7 to the Appeals Chamber.

41. Except as addressed above, projections for the duration of various judicial functions remain unchanged from those set forth in the Mechanism's review report of 20 November 2015 (S/2015/896). Those projections reflect estimates based on factors such as past experiences with cases conducted at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, the scope of the case concerned, activity at the Mechanism to date and the efficient working methods of the Mechanism's Chambers. The projections presume that no extraordinary events occur during the course of the proceedings that might affect their conduct. All projections remain subject to periodic updates based on any new information. In that respect, the Mechanism recalls that the 12 May 2016 evaluation report by the Office of Internal Oversight Services (OIOS) indicated, with respect to cases of the International Tribunal for the Former Yugoslavia, that any changes based on the requirements of a just resolution of a case should not necessarily be construed as reflecting slippage in the conduct of a case and that accurate predictions as to completion could only be made at the close of a trial or at the conclusion of a briefing on appeal. With respect to projections for judicial activities other than trials and appeals from judgment, the Mechanism recalls the observations made in the abovementioned report of the Secretary-General that it was not possible to foresee when, and how often, requests related to contempt cases, protective orders, review of judgments, referral cases and pardon and commutation of sentences would arise, but that such issues were more likely to arise within a period of 10 to 15 years after the closure of the Tribunals, and that the level of work involved would inevitably decrease over time.

42. The Mechanism remains committed to building on the best practices of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia and ensuring the expeditious conclusion of all matters. To that end, during the reporting period, efforts were undertaken to streamline internal working methods and processes within the Chambers and, in collaboration with various other sections at the Mechanism, to further facilitate the maintenance of an efficient and transparent work environment. In addition, the President and senior staff members have exchanged information and views with representatives from other courts and tribunals with a view to identifying and sharing best practices in the field of fair and expeditious case management.

IV. Registry support to judicial activities

43. During the reporting period, the Registry continued to provide support to the Mechanism's judicial activities in both branches.

44. The Registry also processed and disseminated more than 1,370 filings, including 187 Registry legal submissions, amounting to more than 29,409 pages. In addition, it facilitated and serviced hearings related to the *Ngirabatware* case and the pretrial phase of the *Stanišić and Simatović* case retrial. The latter included work related to assigning defence counsel and allocating pretrial funding to the defence teams consistent with relevant pretrial payment policies. The Registry also completed several recruitment exercises for ad hoc trial-related posts and made technical and logistical preparations in anticipation of the commencement of the retrial.

45. The Registry's Language Support Services translated 10,600 pages of documents, provided 47 conference interpreter days and produced 440 pages of transcript in English and French. In addition, the Kinyarwanda Unit of the Language Support Services provided translations of, inter alia, monitoring reports with respect to cases referred to Rwanda. Furthermore, the Registry administered the Mechanism's legal aid system and provided various forms of assistance, financial and otherwise, to an average of 39 defence teams comprising a total of approximately 100 defence team members.

V. Victims and witnesses

46. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements (see Security Council resolution 1966 (2010), annex 2), the Mechanism is responsible for the support and protection of the thousands of protected witnesses who have testified in cases completed by the two International Tribunals, as well as of those witnesses who may appear before the Mechanism.

47. The Witness Support and Protection Unit continues to be fully operational at both branches of the Mechanism. Consistent with judicial protection orders, and in close collaboration with domestic authorities and other United Nations entities, the Unit provides security for witnesses by undertaking threat assessments and coordinating responses to security-related requirements. The Unit also ensures that protected witness information remains confidential, and has continued to contact witnesses when orders to seek consent to the rescission, variation or augmentation of witness protective measures were received. In addition, the Unit facilitates contact between parties and relocated witnesses or witnesses of opposite parties when so required.

48. As part of the provision of support services to witnesses by the Mechanism at the Arusha branch, witnesses residing in Rwanda continue to receive medical and psychosocial services. Those services are particularly focused on the witnesses experiencing psychological trauma or living with HIV/AIDS, many of whom contracted the virus as a result of crimes committed against them during the genocide.

49. The witness protection teams at the two branches continue to exchange best practices and use a common information technology platform for their respective witness databases. The platform maximizes operational efficiency across both branches.

50. The Witness Support and Protection Unit has implemented and complied with 32 judicial orders related to protected witnesses, including in connection with requests for the variation of protective measures. In addition, as of May 2017, the Unit assists with addressing requests for the variation of protective measures related to the International Tribunal for the Former Yugoslavia. The Unit at the Hague branch continued to receive new referrals for the assessment and implementation of protective measures during the reporting period.

51. The Witness Support and Protection Unit at the Hague branch is also preparing for a significant amount of witness activity related to the upcoming *Stanišić and Simatović* case retrial.

52. It is expected that victim and witness protection will continue to be required in future bienniums in the light of the numerous judicial protection orders that will remain in force unless rescinded or waived. Determining how long the victim and witness protection function would need to remain operational is a difficult assessment to be made. The provision of support may be required until at least the last witness is deceased, or, where applicable, until the cessation of protective

measures covering a witness's immediate family members. In relation to the relocated witnesses, support may be required until the last member of the immediate family is deceased.

VI. Fugitives and trial and appeal readiness

53. On 1 July 2012, in accordance with Security Council resolution 1966 (2010) and the statute of the Mechanism, the responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism. Specifically, the Council urged all States, particularly those where fugitives are suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism in order to achieve the arrest and surrender of all remaining fugitives as soon as possible.

54. Eight accused indicted by the International Criminal Tribunal for Rwanda remain fugitives. Of the eight fugitives, the Mechanism retains jurisdiction over three: Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. The cases of the other five fugitives have been referred to Rwanda. The arrest and prosecution of all eight remaining individuals remain a top priority for the Mechanism. The fugitive tracking function is within the responsibility of the Prosecutor and is discussed in annex II of the present report.

55. Consistent with its commitment to efficiency, the Mechanism continues to ensure that it is prepared to conduct a trial or appeal when a fugitive is apprehended and/or when any ongoing proceedings of the International Tribunal for the Former Yugoslavia result in an appeal or retrial. Pursuant to article 15, paragraph 4, of the statute of the Mechanism, rosters of qualified potential staff have been produced to enable the expeditious recruitment of the additional staff required to support those judicial functions.

56. Trial readiness will continue to be required as long as the cases of the remaining accused still at large are pending before the Mechanism, there is a possibility that a retrial may be ordered in any ongoing appeal proceedings or there is a possibility that the referral of a case to a national jurisdiction for trial may be revoked.

VII. Detention facilities

57. The Mechanism has continued to manage and operate the United Nations Detention Facility in Arusha since the transfer of that function from the International Criminal Tribunal for Rwanda on 1 October 2015.

58. It is expected that the services of the Detention Facility in Arusha will continue to be required until all persons awaiting transfer to an enforcement State are transferred, or, alternatively, are released. Once the remaining convicted persons are transferred, the Facility will retain an area commensurate to the housing of the remaining three fugitives expected to be tried by the Mechanism after they are apprehended and will provide a residual custodial capacity for other individuals potentially appearing before the Mechanism. The Facility will need to continue to be operational, albeit in a reduced capacity, during the trial and appeal of those persons, and, if convicted, until their transfer to an enforcement State.

59. At its branch in The Hague, the Mechanism continued to rely on the provision of detention services by the International Tribunal for the Former Yugoslavia at the United Nations Detention Unit in The Hague.

60. Management of the Detention Unit in The Hague will be fully transferred to the Mechanism later in 2017. The services of the Unit will continue to be required until all trials and appeals are concluded and all detained persons are released or transferred to an enforcement State, along with residual capacities, as described above.

VIII. Cases referred to national jurisdictions

61. Pursuant to article 6, paragraph 5, of its statute, the Mechanism is responsible for monitoring cases referred by the two International Tribunals to national courts, with the assistance of international and regional organizations and bodies.

62. The cases of three individuals indicted by the International Criminal Tribunal for Rwanda and subsequently apprehended, Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa, were referred to Rwanda for trial. The *Uwinkindi* case is on appeal, the trial judgment in the *Munyagishari* case was rendered on 20 April 2017, and trial has commenced in the *Ntaganzwa* case. Two additional individuals indicted by the International Criminal Tribunal for Rwanda, Laurent Bucyibaruta and Wenceslas Munyeshyaka, have had their cases referred to France for trial. The *Bucyibaruta* case continues to be in the investigative/pretrial phase, while an appeal is pending before the Chambre de l'instruction in relation to the *Munyeshyaka* case after it was dismissed in 2015 by French investigative judges.

63. The Mechanism continued to monitor the cases referred to Rwanda with the pro bono assistance of six monitors from the Kenyan section of the International Commission of Jurists, pursuant to a memorandum of understanding concluded on 15 January 2015, and subsequently amended on 16 August 2016 to formally encompass the *Ntaganzwa* case. An interim monitor continued to monitor the two cases referred to France. The public monitoring reports in all five cases are available on the Mechanism's website (www.unmict.org).

64. The Mechanism continues to monitor for any change of status in the case of Vladimir Kovačević, which was referred by the International Tribunal for the Former Yugoslavia to Serbia in March 2007.

65. The Mechanism's activities in relation to cases referred to national jurisdictions are expected to continue for the duration of such cases. While each case is different, the experience with referred cases to date is instructive as to potential timelines. With regard to the *Ntaganzwa* case, in which trial has just commenced, it bears noting that the two other cases referred to Rwanda that have led to trial judgment have been ongoing for nearly four and just over five years, respectively, with appeal proceedings under way in one of those cases. If any of the five remaining fugitives whose cases have been referred to Rwanda for trial are arrested, the estimate for the continuation of the Mechanism's monitoring function with respect to Rwanda will need to be assessed at that time. The two cases referred to France have been at the investigative/pretrial phase for nine and a half years and, as set forth above, remain ongoing. Further estimate for the continuation of the Mechanism's monitoring function with respect to France will be dependent on decisions of the French judicial authorities in those cases.

IX. Enforcement of sentences

66. In accordance with article 25 of the statute of the Mechanism, the President has jurisdiction over enforcement issues related to the Mechanism and the two International Tribunals, including the authority to designate the States in which

convicted persons are to serve their sentences, to supervise the enforcement of sentences and to decide on requests for pardon or commutation of sentence.

67. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of States Members of the United Nations that have concluded enforcement-of-sentence agreements or have indicated their willingness to accept convicted persons under any other arrangement. The agreements concluded by the United Nations for the two International Tribunals remain in force for the Mechanism, unless superseded by subsequent agreements. On 12 May 2017, a revised agreement between the United Nations and the Government of Benin was signed, providing for the enforcement of sentences pronounced by either the International Criminal Tribunal for Rwanda or the Mechanism. The agreement, which reflects best practices in enforcement, is the second such framework agreement entered into since the commencement of the Mechanism. The Mechanism continues its efforts to secure additional agreements to increase its enforcement capacity for both branches and welcomes the cooperation of States in that regard.

68. Currently, 23 persons convicted by the International Criminal Tribunal for Rwanda are serving their sentences: 13 are in Mali and 10 are in Benin. The Mechanism is deeply grateful to both those States for their ongoing engagement in the enforcement of sentences, in full conformity with international standards. Ten convicted persons remain at the United Nations Detention Facility in Arusha, pending transfer to an enforcement State, and the Registrar is engaged in negotiating with a variety of States, as a priority, concerning the possible enforcement of their sentences.

69. The number of persons convicted by the International Tribunal for the Former Yugoslavia who are serving their sentences has declined and is currently 16 individuals. Those individuals are serving their sentences in nine States: Denmark (1), Estonia (3), Finland (2), France (1), Germany (4), Italy (1), Norway (1), Poland (2) and Sweden (1). Two convicted persons are at the United Nations Detention Unit in The Hague, awaiting transfer to an enforcement State, and the Registrar is negotiating with one State concerning the possible enforcement of their sentences.

70. The Mechanism, in coordination with national authorities and the United Nations Development Programme (UNDP), continues efforts to address the recommendations of the relevant inspecting bodies charged with examining the conditions of detention in enforcement States. The implementation of the recommendations of an independent prison management expert engaged by the Mechanism is nearing completion in Mali.

71. The Mechanism continued to closely monitor the particular security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali.

72. With the assistance of UNDP-Senegal, the Mechanism has completed the procurement of items required for the eight cells at a prison in Senegal to be fully operational to enforce sentences. The prison cells were refurbished to international prison standards by the International Criminal Tribunal for Rwanda and the Mechanism and handed over to the authority of the Government of Senegal. Against that background, the Mechanism welcomes the assurance provided by the representative of Senegal to the 7829th meeting of the Security Council, held on 8 December 2016, that the implementation of the decision of Senegal to accept International Criminal Tribunal for Rwanda prisoners was in its final phase. The Mechanism continues to work with Senegal to facilitate the enforcement of sentences in that State.

73. It is the goal of the Mechanism that the transfer to enforcement States of all convicted persons currently held at the United Nations Detention Facility in Arusha

or the United Nations Detention Unit in The Hague will be completed within the course of the next biennium. The functions related to the supervision of the enforcement of sentences, carried out under the authority of the President, will continue until the last prison sentence has been served, subject to the application of rule 128 of the Rules of Procedure and Evidence of the Mechanism, which allows for the possibility of another body being designated to supervise the enforcement of sentences after the Mechanism ceases to exist in the event that any convicted person remains imprisoned in an enforcement State at that time. As set forth in the above-mentioned report of the Secretary-General, it is not possible to foresee when, and how often, requests for pardon and commutation of sentence will arise, although in 2009 it was suggested that, in general terms, such issues are more likely to arise within a period of 10 to 15 years after the closure of the Tribunals and that the level of work involved will inevitably decrease over time. In that same report, it was noted that, in the views of the Tribunals, applications for commutation of sentence, pardon or early release could be anticipated until at least 2027 for cases of the International Tribunal for the Former Yugoslavia and until around 2030 for cases of the International Criminal Tribunal for Rwanda. The Mechanism no longer considers the 2009 estimate to be accurate, given the number of persons who are serving life sentences, several of whom will not be eligible for consideration of early release until at least 2035.

X. Relocation of acquitted and released persons

74. The Mechanism has continued to deploy focused efforts to facilitate sustainable solutions for the resettlement of released and acquitted persons and to provide those still residing in Arusha with relevant assistance, in line with the Strategic Plan for the Relocation of Acquitted and Released Persons. The number of acquitted and released persons currently in Arusha awaiting relocation has declined to 11.

75. Through its consistent approach of seeking consensual relocation outcomes, the Mechanism has continued to engage bilaterally with States that have indicated willingness to accept, in principle, one or more of those persons. The Registrar has also pursued high-level exploratory contacts with other potentially relevant States in that regard. During the reporting period, the Mechanism successfully relocated one acquitted person and one released person to a Member State, following sustained diplomatic efforts. The Mechanism is sincerely grateful to that State for its valuable assistance in the matter.

76. The Mechanism remains fully dependent on the goodwill of Member States in accepting acquitted and released persons for relocation in their countries. In view of the totality of experience to date and the numbers of individuals concerned, it remains unlikely that the Mechanism's approach will lead to a comprehensive solution for all individuals concerned within the foreseeable future, although the Mechanism will continue to seek to achieve appropriate bilateral outcomes with relevant Member States. The Mechanism remains grateful to the Security Council and individual Member States for their ongoing support of relocation efforts in order to resolve this longstanding challenge which, with the passage of time, becomes increasingly urgent.

77. The Mechanism notes that this humanitarian challenge will exist until such time as all acquitted and released individuals are appropriately relocated or have died.

XI. Archives and records

78. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the

Mechanism and the two International Tribunals, which shall be co-located with the respective branches of the Mechanism.

79. As the archives are by definition records deemed to be of long-term to permanent value, their management will have to be ensured accordingly. As noted in the above-mentioned report of the Secretary-General, the management of the archives is one of the Mechanism's principal functions and, even after other residual functions draw to a close, that particular function will continue. The Secretary-General's bulletin on record-keeping and the management of United Nations archives of 12 February 2007 (ST/SGB/2007/5) defines the archives of the United Nations as "records to be permanently preserved for their administrative, fiscal, legal, historical or informational value", regardless of form or medium.

80. The archives of the Tribunals include materials concerning: investigations, indictments and court proceedings; work relating to the detention of accused persons, the protection of witnesses and the enforcement of sentences; and documents from States, other law enforcement authorities, international and non-governmental organizations and the general public. The materials exist in both digital and physical format and consist of documents, maps, photographs, audiovisual recordings and objects. The Mechanism Archives and Records Section has been tasked with preserving the materials and facilitating the widest possible access to them, while ensuring the continued protection of confidential information, including information concerning protected witnesses.

81. The Mechanism Archives and Records Section in Arusha is currently responsible for the management of more than 2,000 linear metres of physical International Criminal Tribunal for Rwanda and Mechanism records. In accordance with established retention policies, approximately 40 per cent of the records of the International Criminal Tribunal for Rwanda that have been transferred to the Mechanism's Arusha branch are of temporary value, and the Mechanism Archives and Records Section will be responsible for the periodic disposition of those records. The Mechanism will remain responsible for the management, including the preservation, arrangement and description and security of, as well as for access to, the 1,100 linear metres of records of the Tribunal that have been designated for permanent retention, as well as the records of archival value generated by the Mechanism.

82. In The Hague, the International Tribunal for the Former Yugoslavia transferred 2,295 linear metres of physical records to the Mechanism during the reporting period. More than 60 per cent of those records are Prosecution evidence. More than 54 per cent of the physical records have now been transferred to the Mechanism, in line with the target to achieve complete transfer of earmarked records by the closure of the Tribunal. All judicial records from closed cases have been transferred and the preparation of both physical and digital records continues to intensify, following eight training sessions on the transfer of physical and digital records for managers and staff.

83. In December 2016, the renovation of an additional physical repository for the Mechanism Archives and Records Section in The Hague was completed, and the repository is now in active use. The renovation has expanded the total capacity to 3,228 linear metres. Currently, the repository holds a total of 2,107 linear metres, which is approximately 65 per cent of its capacity.

84. During the reporting period, the Mechanism Archives and Records Section in The Hague received transfers of an additional 5 per cent of digital records from the International Tribunal for the Former Yugoslavia, bringing the total to 85 per cent. Those digital records, as well as the digital records of the International Criminal Tribunal for Rwanda that have been transferred to the Mechanism Archives and Records Section in Arusha, will be incorporated into the Mechanism's digital preservation system. That system will provide for the long-term integrity, reliability

and usability of the digital archives of the Tribunals and the Mechanism. The digital preservation system is fully implemented and preparations are under way to begin integrating records in the third quarter of 2017.

85. The public interface to access and search judicial records of the International Criminal Tribunal for Rwanda and the Mechanism has continued to be updated throughout the reporting period: approximately 33,000 judicial records are currently available to the public through the interface. The Mechanism Archives and Records Section has continued to provide substantive and technical support towards the development of a unified system for managing the judicial records of both International Tribunals and the Mechanism, which is expected to become operational in both branches in 2017.

86. The Mechanism Archives and Records Section has been active in creating exhibitions promoting the archives and activities of the International Tribunals and the Mechanism. In collaboration with the External Relations Office, a standing exhibition was opened, highlighting selected "firsts" in the histories of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia.

87. The Mechanism is also hosting two international archival meetings at the new facility in Arusha in May 2017, including the annual executive board meeting for the International Council on Archives. In addition, the Mechanism has worked with the International Council on Archives on the implementation of its five-year Africa programme (2017-2021) and continues to work in collaboration with the Eastern and Southern African Management Institute. In that context, the Mechanism facilitated several on-site visits and provided expert advice and briefings to multiple groups of participants from all over Africa at no cost to the Organization.

XII. Cooperation of States

88. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate in relation to the investigation and prosecution of persons covered under the statute, as well as with orders and requests for assistance in relation to cases before the Mechanism. States are also required to respect the statute owing to its adoption by the Security Council pursuant to Chapter VII of the Charter of the United Nations. The Mechanism, like the two International Tribunals, is dependent on the cooperation of States.

89. The arrest and surrender of the remaining fugitives are a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations being conducted by the Prosecutor, and it continues the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in that respect. As described above, the Mechanism relies on the cooperation of States for the enforcement of sentences. In addition, the cooperation of Turkey is necessary to resolve the situation concerning Judge Akay, as set forth above.

90. The Mechanism continues to promote communication and cooperation with the Governments of Rwanda and of the States of the former Yugoslavia. The Mechanism will continue to discuss matters of mutual interest with the Rwandan authorities, including means by which cooperation with the Government of Rwanda can be enhanced, in line with paragraph 23 of Security Council resolution 2256 (2015). In that regard, the Mechanism's Kinyarwanda Unit, established at the beginning of 2016, continues to translate trial judgments of the International

Criminal Tribunal for Rwanda into Kinyarwanda. The translation of six such judgments was completed during the reporting period.

91. Representatives of the Mechanism, up to the level of the principals, have also engaged with government officials and met with victims groups from the States of the former Yugoslavia. Following the closure of the International Tribunal for the Former Yugoslavia, expected at the end of 2017, the Mechanism will assume remaining responsibilities from the Tribunal with regard to facilitating the establishment of information and documentation centres in the region of the former Yugoslavia, in accordance with paragraph 15 of Security Council resolution 1966 (2010).

XIII. Assistance to national jurisdictions

92. The Mechanism routinely receives requests from national authorities or parties to national proceedings for assistance in relation to domestic proceedings concerning individuals allegedly implicated in the genocide in Rwanda or the conflicts in the former Yugoslavia. Furthermore, during the reporting period, the Mechanism received and considered requests to vary the protective measures of witnesses and disclose their testimony and evidence (as discussed in the section entitled "Judicial activities" above). Comprehensive information and guidance for those who wish to request assistance are available on the Mechanism's website.

93. The data concerning requests for assistance submitted to both branches of the Mechanism continues to be centralized into one repository. The branches also continue to exchange best practices for the development of policies and training programmes with a view to maximizing operational efficiency and ensuring that the Mechanism provides effective assistance to national jurisdictions.

94. While it is not possible to fully foresee when, and how often, requests for assistance from national jurisdictions will arise in the future, it is expected that those activities will continue while national authorities continue to investigate and prosecute cases in domestic jurisdictions related to the genocide in Rwanda and the conflicts in the former Yugoslavia.

XIV. External relations

95. On 7 April 2017, 23 years after the outbreak of the genocide in Rwanda in 1994, the Mechanism organized, with the East African Community and the local Rwandan diaspora, a commemorative event in Arusha to remember the victims of the genocide against the Tutsi in Rwanda, during which Hutu and others who opposed the genocide were also killed. The Mechanism's Registrar, along with senior officials of Rwanda, the United Republic of Tanzania and the East African Community, solemnly commemorated the genocide and stressed the importance of unity and renewal.

96. On 5 and 6 May 2017, the Mechanism hosted a colloquium for national, regional and international judges at its Arusha branch, funded by an external grant. The colloquium, which was aimed at deepening a shared understanding of key aspects of international criminal law, brought together judges from the judiciary of the United Republic of Tanzania, subregional and regional judges from the East African Court of Justice and the African Court on Human and Peoples' Rights, and judges from the Mechanism. The two-day colloquium was also an opportunity for representatives of the Mechanism and other judicial institutions located in Arusha to examine possibilities for closer partnerships in the field of the rule of law and to draw on best practices to strengthen judicial methodologies, within the institutions'

respective mandates. The colloquium is expected to be one of a series of knowledge-sharing initiatives, organized by the Mechanism, aimed at professional and academic audiences in East Africa and in the region of the former Yugoslavia.

97. In addition, throughout the reporting period, the External Relations Office, comprising staff at both branches of the Mechanism, supported the Mechanism's principals in their engagement with the diplomatic community, civil society, media and the public, including in Arusha, Dar es Salaam, The Hague and elsewhere. The Office organized events for representatives of the diplomatic community, academia, international non-governmental organizations and the general public, and delivered presentations to visitors at the Mechanism's premises in Arusha and The Hague. In addition, the Office promptly responded to more than 200 queries from the media and researchers on cases under the Mechanism's jurisdiction, facilitated interviews with the Mechanism's principals on major television and radio networks and expanded the visibility of the Mechanism through the facilitation of broad coverage in the international and regional print media. Moreover, the External Relations Office produced new materials, such as case information sheets on the eight fugitives of the International Criminal Tribunal for Rwanda, and updated other relevant information materials.

98. In an effort to further enhance the accessibility and transparency of information, the Mechanism launched a new and enhanced version of its website in January 2017. The website recorded more than 190,000 page views during the reporting period. In March 2017, a new version of the Case Law Database was also launched to further promote access to the jurisprudence of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism. Furthermore, the External Relations Office continued expanding the content and reach of its social media platforms. For example, the Mechanism's Twitter account is being followed by approximately 125,000 people, while its Facebook page has attracted an audience of more than 200,000. The Office continued to manage and update the content of a separate Facebook account dedicated to the search for fugitives. The Office also continued to maintain the website of the International Tribunal for the Former Yugoslavia and the legacy website of the International Criminal Tribunal for Rwanda.

99. The Mechanism continued to provide library services. The Arusha library, which is one of the premier international law research resources in East Africa, was relocated to the Mechanism's new premises and was reopened to the public in December 2016. The library at the Arusha branch hosted a number of delegations at the new premises and continues to be open to researchers and members of the public from the Great Lakes region and beyond. The library processed an average of 290 requests each month, including research requests and loans. In The Hague, the Library and Reference Unit served staff at both the International Tribunal for the Former Yugoslavia and the Mechanism. During the reporting period, the library addressed an average of 182 loans and research requests each month. Consolidation of the library collection and judgments collection, as well as the preparation of book donations, is ongoing.

XV. Audit reports of the Office for Internal Oversight Services

100. During the reporting period, the Mechanism has continued to benefit from regular audits by OIOS and the implementation of its recommendations. Four audit reports were issued during the reporting period.

101. The first audit report, issued in December 2016, was the first audit under the new ratings methodology adopted on 31 August 2016 and concerned the Mechanism

governance framework. While finding that appropriate controls were in place, OIOS made one recommendation requiring the establishment of a senior manager's compact between the Secretary-General and the Registrar to strengthen accountability, particularly in financial and human resources matters. At the time of writing, that recommendation is outstanding, and Headquarters is in the process of drafting the compact.

102. The second audit report, issued in March 2017, assessed the implementation of the Umoja human resources management module at the Mechanism. OIOS noted that the module had been substantially implemented and had satisfactorily managed the payroll of staff members in the new system. However, the audit report observed that the leave element of the module was yet to be fully implemented. In addition, OIOS found that not all Umoja transactional users had completed all required training courses. Two recommendations regarding those issues were made, which the Mechanism has accepted and is implementing.

103. The third audit report, issued in April 2017, involved the post-construction phase of the new premises in Arusha. OIOS found that the overall management of the construction project was generally adequate and that administrative processes and procedures were in place to support the implementation of the project. One recommendation was made concerning future consultations with the Procurement Division and the Office of Legal Affairs, which the Mechanism has accepted and is implementing.

104. The final audit report issued during the reporting period assessed the management of education grant disbursements. OIOS found that the reimbursement of tuition, which forms the bulk of education grant payments, was managed adequately. However, the audit found that the Mechanism needed to strengthen controls in the administration of education grant entitlements, and issued four recommendations. The Mechanism has accepted those recommendations and has initiated the necessary action to implement them.

105. At the time of writing, an audit on official travel is under way. In addition, the Mechanism is working with OIOS on its ongoing audit on the effectiveness of the liquidation activities of the International Criminal Tribunal for Rwanda, requested by the General Assembly in its resolution 71/267.

XVI. Conclusion

106. The Mechanism continues to strive to fully realize the mandate established by the Security Council in its resolution 1966 (2010), crafting innovative approaches across the institution to do so flexibly and effectively. In achieving its goals, the Mechanism benefits from sustained support from the International Tribunal for the Former Yugoslavia, the Office of Legal Affairs and the Department of Management of the Secretariat, from the Governments of the United Republic of Tanzania, the Netherlands, Rwanda and the States of the former Yugoslavia and from individual States Members of the United Nations. That support is crucial to the continued success of the Mechanism, which maintains its focus on carrying out its mandate in an efficient and cost-effective manner.

Enclosure 1

International Residual Mechanism for Criminal Tribunals: staffing[1]

	Number of staff by branch and organ					
Category	*Arusha branch*	*Hague branch*	*Chambers*[a]	*Office of the Prosecutor*	*Registry*[b]	*Mechanism overall*
All staff	157	266	36	77	310	423
Staff on continuous posts	110	59	9	26	134	169
Staff on general temporary assistance positions	47	207	27	51	176	254
International (Professional and Field Service)	89	120	28	52	129	209
Local (General Service)	68	146	8	25	181	214

[a] Chambers includes the Office of the President. Chambers staffing data excludes judges. In the Mechanism budget, Chambers staff are included in the Registry.

[b] Registry staff includes: Immediate Office of the Registrar, Mechanism Archives and Records Section, Witness Support and Protection, Conference Support Services, Language Support Services, Public Relations, Administration and Security (including at the United Nations Detention Facility and United Nations Detention Unit).

	Geographical representation		
	Arusha branch	*Hague branch*	*Mechanism overall (percentage)*
Nationalities	**41**	**54**	**69**
Geographical groups			
All staff			**423**
Africa	117	15	132 (31)
Asia-Pacific	8	16	24 (6)
Eastern Europe	4	59	63 (15)
Latin America and Caribbean	2	6	8 (2)
Western European and Others	26	170	196 (46)
International staff (Professional and Field Service)			209
Africa	49	5	54 (26)
Asia-Pacific	8	7	15 (7)
Eastern Europe	4	21	25 (12)
Latin America and Caribbean	2	3	5 (2)
Western European and Others	26	84	110 (53)
Local (General Service)			214
Africa	68	10	78 (36)
Asia-Pacific	0	9	9 (4)
Eastern Europe	0	38	38 (18)

[1] The data in the tables herein represents the number of staff employed as at 25 April 2017. It does not reflect support provided to the Mechanism by staff of the International Tribunal for the Former Yugoslavia through double-hatting arrangements, as envisaged and encouraged by the Security Council in its resolutions 1966 (2010) and 2256 (2015).

	Geographical representation		
	Arusha branch	*Hague branch*	*Mechanism overall (percentage)*
Latin America and Caribbean	0	3	3 (1)
Western European and Others	0	86	86 (40)

Africa Group: Burundi, Cameroon, the Congo, the Democratic Republic of the Congo, Egypt, Ethiopia, Ghana, Guinea, Kenya, Liberia, Madagascar, Mali, the Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, the Sudan, Uganda, the United Republic of Tanzania and Zimbabwe.

Asia-Pacific Group: China, Cyprus, Fiji, Indonesia, Iraq, Lebanon, Malaysia, Nepal, Pakistan, the Philippines, the Republic of Korea, Samoa and Thailand.

Eastern European Group: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Latvia, Poland, Romania, the Russian Federation, Serbia, the former Yugoslav Republic of Macedonia and Ukraine.

Latin America and Caribbean Group: Bolivia (Plurinational State of), Cuba, the Dominican Republic, Guatemala, Haiti and Jamaica.

Western European and Others Group: Australia, Austria, Belgium, Canada, Denmark, France, Germany, Ireland, Israel, Italy, the Netherlands, New Zealand, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

	Gender representation		
	Arusha branch	*Hague branch*	*Mechanism overall (percentage)*
Professional staff (all levels)			
Male	32	42	74 (45)
Female	13	78	91 (55)
Professional staff (P-4 and above)			
Male	15	16	31 (54)
Female	1	25	26 (46)

	Staff by organ		
	Arusha branch	*Hague branch*	*Mechanism overall*
Chambers (including Office of the President)	6	30	36
Office of the Prosecutor	19	58	77
Registry:	132	178	310
Immediate Office of the Registrar	13	13	26
Archives and Records Section	15	13	28
Witness Support and Protection	11	6	17
Conference Support Services	0	13	13
Language Support Services	6	33	39
Public Relations	1	4	5
Administration	28	38	66
Security (including the United Nations Detention Facility and the United Nations Detention Unit)	58	58	116

Enclosure 2

International Residual Mechanism for Criminal Tribunals: revised appropriations and expenditures for the biennium 2016-2017[1]

Revised appropriations for the biennium 2016-2017 (net of staff assessment), by branch and organ

		Chambers	*Office of the Prosecutor*	*Registry*	*Liabilities: judges of the International Criminal Tribunal for Rwanda and after-service health insurance*	*Mechanism*
Arusha	Post		4 659 300	22 058 900		26 718 200
	Non-post[a]	3 550 400	4 324 000	34 316 200		42 190 600
	Subtotal	**3 550 400**	**8 983 300**	**56 375 100**		**68 908 800**
The Hague	Post		2 198 400	9 784 600		11 983 000
	Non-post	2 888 000	6 100 200	31 852 800		40 841 000
	Subtotal	**2 888 000**	**8 298 600**	**41 637 400**		**52 824 000**
Overall	Post		6 857 700	31 843 500		38 701 200
	Non-post	6 438 400	10 424 200	66 169 000	3 420 700	86 452 300
	Total	**6 438 400**	**17 281 900**	**98 012 500**	**3 420 700**	**125 153 500**

[a] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Expenditures (net of staff assessment) as at 10 May 2017 (per Umoja), by branch and organ

		Chambers	*Office of the Prosecutor*	*Registry*	*Liabilities: judges of the International Criminal Tribunal for Rwanda and after-service health insurance*	*Mechanism*
Arusha	Post		3 377 290	11 459 553		14 836 843
	Non-post	411 313	967 398	16 245 438		17 624 149
	Subtotal	**411 313**	**4 344 688**	**27 704 991**		**32 460 992**
The Hague	Post		1 653 452	6 459 022		8 112 474
	Non-post	1 953 752	5 358 136	26 344 882		33 656 770
	Subtotal	**1 953 752**	**7 011 588**	**32 803 904**		**41 769 244**
Overall	Post		5 030 742	17 918 575		22 949 317
	Non-post	2 365 065	6 325 534	42 590 320	1 728 289	53 009 209
	Total	**2 365 065**	**11 356 276**	**60 508 895**	**1 728 289**	**75 958 526**

[1] The data in the tables herein does not reflect resources provided to the Mechanism by the International Tribunal for the Former Yugoslavia through double-hatting arrangements or otherwise, as envisaged and encouraged by the Security Council in its resolutions 1966 (2010) and 2256 (2015).

Percentage of biennial budget expended as at 10 May 2017, by branch and organ

		Chambers	*Office of the Prosecutor*	*Registry*	*Liabilities: judges of the International Criminal Tribunal for Rwanda and after-service health insurance*	*Mechanism*
Arusha	Post		72.5	51.9		55.5
	Non-post	11.6	22.4	47.3		41.8
	Subtotal	**11.6**	**48.4**	**49.1**		**47.1**
The Hague	Post		75.2	64.7		66.6
	Non-post	67.7	87.8	82.7		82.4
	Subtotal	**67.7**	**84.5**	**78.5**		**78.8**
Overall	Post		73.4	56.3		59.3
	Non-post	36.7	60.7	64.4	50.5	61.3
	Total	**36.7**	**65.7**	**61.7**	**50.5**	**60.7**

Annex II

[Original: English and French]

Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz, for the period from 16 November 2016 to 15 May 2017

I. Overview

1. The Prosecutor submits this tenth progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 November 2016 and 15 May 2017.

2. During the reporting period, the Office of the Prosecutor of the Mechanism continued to focus on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and in Rwanda. The Office relies on the full cooperation of States to successfully carry out its mandate in those areas.

3. The Office of the Prosecutor continued to engage in intense trial and appeal work during the reporting period. Pretrial proceedings in the *Stanišić and Simatović* case continued following the retrial ordered by the Appeals Chamber of the International Tribunal for the Former Yugoslavia on 15 December 2015. The Office completed its written appeals briefings in the *Karadžić* and *Šešelj* cases following the issuance of trial judgments by the International Tribunal for the Former Yugoslavia on 24 and 31 March 2016, respectively. In addition to the trial and appeal activity in The Hague, at both branches the Office processed a high volume of other litigation arising out of completed cases.

4. Continuing its efforts to reform and strengthen its fugitive tracking activities, the Office of the Prosecutor established, during the reporting period, two task forces focused on Africa and Europe, respectively, to coordinate efforts with the International Criminal Police Organization (INTERPOL) and national law enforcement partners. The Office also began undertaking a necessary restructuring of its tracking team. The Office of the Prosecutor expresses its appreciation to INTERPOL, the Government of Rwanda and other partners for their strong support to those and other efforts to locate and arrest the remaining fugitives.

5. Regarding national prosecutions of war crimes committed in Rwanda, the Office of the Prosecutor, within existing resources, continued to monitor cases referred to Rwandan and French authorities, provide national justice sectors with access to the Mechanism's evidence collection and support national accountability for those crimes. A notable positive development during the reporting period was the delivery of the trial judgment in the *Munyagishari* case referred to Rwanda, in which the accused was convicted of genocide and sentenced to life imprisonment.

6. Regarding national prosecutions of war crimes committed in the former Yugoslavia, the Office of the Prosecutor continues to be gravely concerned that the political environment, nationally and regionally, is having a strongly negative impact on war crimes justice in national courts. Progress continued to be made, however, in processing complex cases in Bosnia and Herzegovina. Unfortunately, from a regional perspective positive results are more limited, and regional judicial cooperation continues moving in a negative direction. The situation in Serbia is of particular concern, where the immediate outlook for meaningful progress in war

crimes justice is negative. In addition, across the region, the denial of crimes and the non-acceptance of the facts established by the International Tribunal for the Former Yugoslavia continue to undermine regional stability and hinder sincere reconciliation.

7. In managing its work, the Office of the Prosecutor of the Mechanism continued to be guided by the views of the Security Council and its requests, as set forth in, inter alia, paragraphs 18, 19 and 20 of its resolution 2256 (2015). The Office of the Prosecutor of the Mechanism, in conjunction with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, continued to implement the "one office" policy to further streamline operations and reduce costs by effectively integrating staff and resources across the Offices. The Office of the Prosecutor of the Mechanism continued the coordinated transition of so-called "other functions" from the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia.

II. Trials and appeals

8. During the reporting period, the Office of the Prosecutor continued its work on one trial (*Stanišić and Simatović*) and two appeals proceedings (*Karadžić* and *Šešelj*) arising out of cases transferred from the International Tribunal for the Former Yugoslavia pursuant to the statute of the Mechanism and the transitional arrangements. This ad hoc judicial activity is temporary in nature. It is also expected that the Office will conduct further appeal proceedings, if any, in the *Mladić* case following the anticipated rendering of the trial judgment by the Tribunal in November 2017.

A. Update on the progress of trials

9. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia revoked the trial judgment in the *Stanišić and Simatović* case, and ordered the case to be retried on all counts. Pursuant to the statute of the Mechanism and the transitional arrangements, the retrial is being conducted by the Mechanism.

10. During the reporting period, the Office of the Prosecutor of the Mechanism continued its pretrial preparations in accordance with the workplan for the case issued by the pretrial judge on 3 June 2016. The Office submitted all required filings by the established deadlines. It is anticipated that the trial will commence shortly after the end of the reporting period, approximately one and a half years following the Appeals Chamber's judgment ordering the case to be retried.

B. Update on the progress of appeals

1. Karadžić

11. On 24 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Radovan Karadžić for genocide, crimes against humanity and war crimes, and sentenced him to a term of imprisonment of 40 years. On 22 July 2016, the Office of the Prosecutor of the Mechanism filed its notice of appeal against the trial judgment. The Office identified four grounds of appeal, including against the acquittal for genocide in 1992 and the imposed sentence. The defence also filed its notice of appeal, which set out 50 grounds of appeal.

12. During the reporting period, the Office completed the written appeals briefing phase 12 months from the issuance of the trial judgment. The Office has now begun initial preparations for the oral appeal hearing.

2. Šešelj

13. On 31 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia, by majority, acquitted Vojislav Šešelj on all counts of the indictment. The Office of the Prosecutor of the Mechanism filed its appeal brief on 18 July 2016. The Office puts forward two grounds of appeal, arguing that the Trial Chamber erred in law by failing to deliver a reasoned judgment and erred in fact by acquitting the accused.

14. During the reporting period, the Office completed the written appeals briefing phase 11 months from the issuance of the trial judgment. The Office has now begun initial preparations for the oral appeal hearing.

C. Cooperation with the Office of the Prosecutor

15. The Office of the Prosecutor continues to rely on the full cooperation of States to successfully complete its mandate. The Office's access to documents, archives and witnesses is critical for ongoing trial and appeal proceedings of the Mechanism, as well as in relation to locating and arresting fugitives and coordinating witness protection.

1. Cooperation with Rwanda and the States of the former Yugoslavia

16. During the reporting period, cooperation by Bosnia and Herzegovina, Croatia, Rwanda and Serbia with the Office of the Prosecutor remained satisfactory. The Office will require assistance in relation to trial, appeal, review and contempt proceedings, including the provision of evidence and access to witnesses, and fully expects that its requests for assistance will be promptly and adequately processed.

2. Cooperation with other States and organizations

17. Cooperation and support from States other than those of the former Yugoslavia and Rwanda, as well as from international organizations, remains integral to the successful completion of Mechanism activities. The Office of the Prosecutor again acknowledges the support it received during the reporting period from States Members of the United Nations and international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe and INTERPOL.

18. The international community continues to play an important role in providing incentives for States to cooperate with the Mechanism and undertake national prosecutions of war crimes. The European Union's policy of conditionality, linking membership progress to full cooperation with the International Tribunal for the Former Yugoslavia and the Mechanism, remains a key tool for ensuring continued cooperation with the Mechanism and consolidating the rule of law in the former Yugoslavia. Assistance is also increasingly needed to support the national prosecution of war crimes cases in Rwanda and the States of the former Yugoslavia.

III. Fugitives

19. As of the end of the reporting period, eight fugitives indicted by the International Criminal Tribunal for Rwanda remain at large. The Office of the

Prosecutor continued its efforts to locate and arrest the three fugitives whose cases will be tried by the Mechanism: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. The Office also continued to search for information on the whereabouts of the five fugitives who are currently expected to be brought to trial in Rwanda following their arrest: Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Ryandikayo and Phenéas Munyarugarama.

20. As previously reported, during the course of the past year the Office of the Prosecutor conducted an overall review of its tracking efforts. The review led to a number of preliminary changes in the Office's work, including the development of concrete strategies regarding each of the eight remaining fugitives and initial steps to strengthen the Office's capacities. During the reporting period, the Office continued its efforts to review, reform and improve its tracking activities.

21. Most notably, during the reporting period, the Office, following consultations with key partners, developed and established two task forces focused on Africa and Europe, respectively. The task forces bring the Office together with key partners, including INTERPOL and relevant national law enforcement authorities, in an operational structure that can coordinate and conduct intelligence and investigative activities in pursuit of the fugitives. The task force approach will allow the Office to streamline and expedite such activities by promoting the sharing of information and strengthening collaboration between the Office and its partners. Support from key partners, in particular INTERPOL and the Government of Rwanda, was critical to the establishment of the task forces, and the Office expresses its gratitude to all national authorities who have so far agreed to participate or provide assistance.

22. At the same time, the Office has begun undertaking a necessary restructuring of its tracking team. Based on its comprehensive review of the current situation, the Office identified a mismatch between the structure and capacities of its tracking team and the activities needed at the present time to move the search for the remaining fugitives forward. In particular, the Office must strengthen its analytical capacities and its ability to work closely with partner law enforcement agencies. At the same time, the Office also needs to ensure that it can conduct a wide range of necessary investigative activities, including communications and financial investigations. Accordingly, the Office will, in the near future, abolish the existing tracking team structure and establish a new Fugitives and Investigations Unit that provides the needed capacities. The Office of the Prosecutor expects that this and other measures will improve the efficiency and effectiveness of its work in locating and arresting the remaining fugitives.

23. The Office of the Prosecutor underscores its commitment to arresting the remaining fugitives as soon as possible. As a reflection of that commitment, the Office intends to propose in its forthcoming budget for 2018-2019 that fugitive tracking be reclassified from a core to an ad hoc function, which will clarify and signal to others that fugitive tracking is a temporary activity that must be brought to a close in a reasonable time period, consistent with other ad hoc functions of the Mechanism. Along the same lines, the Office of the Prosecutor has concluded that, when determining how long fugitive tracking will continue to be needed as an ad hoc Mechanism function, it is necessary to consider not only how many fugitives remain at large, but also the results that are being achieved. The Mechanism cannot continue tracking fugitives ad infinitum. On the contrary: the Prosecutor believes that if a track record of success is not demonstrated within the next few years, it will be necessary, for operational reasons alone, to seriously consider fully transferring fugitive tracking responsibilities to national authorities.

24. While the Office of the Prosecutor is undertaking steps under its control to improve its tracking efforts, fugitives will only be successfully located and arrested

if national authorities provide full and prompt cooperation. The Office is grateful for all efforts by members of the Security Council, individually and collectively, to remind States Members of the United Nations of their obligation to cooperate with the Mechanism and emphasize the importance and desirability of locating and arresting the remaining eight fugitives. The political support provided by the Council has been critical to successfully arresting fugitives in the past, and will continue to be an essential element in achieving results in the future.

IV. Assistance to national war crimes prosecutions

25. National prosecutions are now essential to the achievement of greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. Consistent with the completion strategies of both International Tribunals, Security Council resolution 1966 (2010), the statute of the Mechanism and Council resolution 2256 (2015), the Office of the Prosecutor is mandated to assist and support effective national prosecutions of those crimes. In the affected countries, the effective prosecution of the crimes committed is fundamental in order to build and sustain the rule of law, establish the truth of what occurred and promote reconciliation. Third-party States are also undertaking prosecutions against suspects who are present in their territory for crimes committed in Rwanda and the former Yugoslavia.

26. The Office continued its efforts, within existing resources, to monitor, support and advise national judicial authorities prosecuting war crimes cases arising out of the conflicts in Rwanda and the former Yugoslavia. The Office maintains an ongoing dialogue with counterparts, and undertakes a range of initiatives to assist and build capacity in national criminal justice sectors.

A. War crimes committed in Rwanda

27. Five cases referred by the International Criminal Tribunal for Rwanda under rule 11bis of the Rules of Procedure and Evidence of the Tribunal are currently being processed in the national courts of France and Rwanda. The cases against Wenceslas Munyeshyaka and Laurent Bucyibaruta were referred to France in 2007. Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa were transferred to Rwanda in 2012, 2013 and 2016, respectively. All proceedings remain ongoing.

28. It should be emphasized that all those suspected of committing crimes during the Rwandan genocide must be brought to justice, whether in Rwanda or another State. Consistent with the principle of complementarity and national ownership of post-conflict accountability, prosecutions by the Rwandan justice sector, in accordance with international due process and fair trial standards, are in principle the most advantageous accountability mechanism. In that regard, the Office of the Prosecutor encourages the international community to continue its efforts to support and strengthen the Rwandan criminal justice sector by providing financial assistance and capacity-building as needed.

1. Genocide denial and genocide ideology

29. Eleven years ago, the Appeals Chamber of the International Criminal Tribunal for Rwanda held that the facts of the genocide committed in Rwanda were established beyond any dispute and thus constituted facts of common knowledge. In particular, the Appeals Chamber concluded that it was a universally known fact that, between 6 April 1994 and 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group. Establishing that and other facts about the Rwandan genocide

was one of the Tribunal's most important contributions to re-establishing peace and security in Rwanda and promoting reconciliation between the affected communities.

30. Yet today, genocide denial, in all of its forms and manifestations, continues. To be clear: there are no other facts or circumstances that in any way alter the truth that over just 100 days in Rwanda, hundreds of thousands of innocents were senselessly murdered, tortured, raped and forced to flee their homes. Efforts to minimize the scale of the death and destruction, or point to other factors to detract attention from the facts of the genocide, are intolerable and unacceptable. At the same time, genocide ideology continues to present clear risks to international peace and security. Ideologies of discrimination, division and hate are factors promoting conflict and crimes in places around the globe.

31. The Office of the Prosecutor of the Mechanism firmly rejects genocide denial, and is committed to promoting education and remembrance as key tools in the fight against genocide ideology. The facts that have been established in the courtroom must be taught in the classroom, and the Office will continue enabling access to its evidence collection so that the perpetrators of genocide in Rwanda can be brought to justice in national courts.

2. Cases referred to France

32. Wenceslas Munyeshyaka, an ordained Catholic priest, was indicted by the International Criminal Tribunal for Rwanda in July 2005 on four counts of genocide, rape as a crime against humanity, extermination as a crime against humanity and murder as a crime against humanity. The indictment was referred by the Tribunal to France for trial on 20 November 2007. As previously reported, the investigation by French authorities in the *Munyeshyaka* case has not resulted in charges being brought against the suspect. On the recommendation of the Paris Public Prosecutor, the *Juge d'instruction* on 2 October 2015 confirmed the *non-lieu* dismissal of the case before trial, which the civil parties have appealed. A date for the appeal hearing has not yet been set.

33. Laurent Bucyibaruta, the prefect of Gikongoro Prefecture, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts of direct and public incitement to commit genocide, genocide, complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The indictment was referred by the Tribunal to France for trial on 20 November 2007. The investigation by French authorities has now been completed. It will be some months before a decision whether to proceed to trial can be expected.

34. The Office of the Prosecutor again encourages French judicial authorities to complete the processing of those cases as soon as possible. Although confirmed indictments in both cases were referred by the International Criminal Tribunal for Rwanda to France in 2007, neither case has gone to trial or been closed 10 years later. The Office of the Prosecutor recognizes the challenges the French judiciary has faced in processing the cases, and hopes that lessons learned from those experiences can contribute to the successful investigation and prosecution of international crimes in French courts in the future.

3. Cases referred to Rwanda

35. Jean Uwinkindi, a pastor in the Pentecostal Church, was indicted by the International Criminal Tribunal for Rwanda in September 2001 on three counts of genocide, conspiracy to commit genocide and extermination as a crime against humanity. He was transferred to Rwanda for trial on 19 April 2012, and the trial commenced on 14 May 2012. On 30 December 2015, the High Court issued its trial

judgment, convicting Uwinkindi and sentencing him to life imprisonment. Appeals proceedings are under way.

36. Bernard Munyagishari, a local leader in the *Mouvement Révolutionaire National pour le Développement* party, was indicted by the International Criminal Tribunal for Rwanda in September 2005 on five counts of conspiracy to commit genocide, genocide, complicity in genocide, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 24 July 2013. On 20 April 2017, the High Court issued its trial judgment, convicting Munyagishari of genocide and murder as a crime against humanity, acquitting him of rape as a crime against humanity and sentencing him to life imprisonment. It is anticipated that the trial judgment will be appealed.

37. Ladislas Ntaganzwa, burgomaster of Nyakizu commune, was indicted by the International Criminal Tribunal for Rwanda in June 1996, with an amended indictment charging him with five counts of genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 20 March 2016. Trial proceedings are now under way.

B. War crimes committed in the former Yugoslavia

1. Denial of crimes and non-acceptance of established facts

38. As the International Tribunal for the Former Yugoslavia nears the completion of its mandate, the ongoing, widespread denial of crimes and non-acceptance of facts established in its judgments should be regarded as a matter of acute concern having real consequences for reconciliation and stability in the Western Balkans today. The Security Council has expressed its conviction that the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia contributes to the restoration and maintenance of peace in the former Yugoslavia. The International Tribunal for the Former Yugoslavia pursued that goal by establishing the facts of the crimes committed and holding individuals accountable. Now, it is necessary to consistently combat the denial of crimes and prevent attempts at revisionism to ensure the continued maintenance of peace in the former Yugoslavia, promote stability in the region and enable more positive neighbourly relations.

39. As the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism have regularly reported, the denial of crimes and non-acceptance of facts established in the judgments of that Tribunal are widespread throughout the region. Convicted war criminals are often glorified as heroes. Students in different countries, as well as within Bosnia and Herzegovina itself, are taught widely different and irreconcilable histories of the recent past.

40. Genocide denial is among the most notorious forms of rejectionism and revisionism. The International Tribunal for the Former Yugoslavia has conclusively determined that genocide was committed in Srebrenica in 1995, and the International Court of Justice as well as national courts have consistently reached the same conclusion. Yet the recently elected Bosnian Serb mayor of Srebrenica has publicly denied on a number of occasions the truth that genocide was committed against the Bosniak population of Srebrenica. Similarly, genocide denial is widespread in Serbia, whose governments have conspicuously avoided accepting that genocide was committed despite the finding of the International Court of Justice that Serbia failed to prevent it.

41. The denial of crimes and the non-acceptance of facts is certainly not limited to the Srebrenica genocide. In every country and community, to varying degrees, the crimes committed during the conflict are denied, rejected or ignored.

42. Today, the denial and revisionism are feeding regional instability and undermining neighbourly relations. National and communal identities founded on false histories are inherently sources of regional tension and distrust. At the same time, it is clear that peace in the region cannot be traded for impunity, if for no other reason than that the communities cannot and will not simply ignore their recent past. Nor are impunity and ignorance compatible with European integration and values, particularly the rule of law and respect for fundamental human rights.

43. That is why the Security Council established the International Tribunal for the Former Yugoslavia. The facts that have been proved beyond reasonable doubt provide the foundation for a shared understanding of the recent past as an essential element of reconciliation and positive regional relations.

2. Regional judicial cooperation

44. Judicial cooperation between the countries of the former Yugoslavia is essential in order to ensure that those responsible for war crimes are held accountable. Many suspects may not be present in the territory where they are alleged to have committed the crimes and cannot be extradited to the territorial State for prosecution. The Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism have repeatedly called attention to the negative trends in regional judicial cooperation in war crimes justice. Unfortunately, during the reporting period there was little evidence of change in a more positive direction. In addition to issues previously noted, the Office has received alarming reports indicating that judicial cooperation between Serbia and Kosovo[1] in war crimes matters has completely broken down.

45. The Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, in its twenty-fifth completion strategy report (S/2016/454), warned that countries in the region continued to issue and maintain unknown numbers of non-public international arrest warrants, and underscored that contentious extradition litigation in third-party States represented a failure of regional judicial cooperation. The urgent need to address those challenges has been again demonstrated during the reporting period. The status quo is increasingly unsustainable and causing real damage to diplomatic relations.

46. The Office of the Prosecutor of the Mechanism has called for urgent steps to mitigate and reverse that situation. The Office stands ready to support initiatives to improve mutual trust in domestic accountability mechanisms and move regional judicial cooperation closer to European standards. Technical solutions to improve regional judicial cooperation likely should include enabling joint investigation teams that comprise investigators and prosecutors from the country where the crime was committed and from the country able to prosecute the accused. At the same time, there will not be a single solution that addresses all challenges, and it will be necessary to reflect on lessons learned from previous initiatives such as the so-called "rules of the road" programme. In terms of process, it will be of decisive importance that proposals be developed by the respective prosecution services and supported by the Office of the Prosecutor of the Mechanism and by other international experts. Independent and impartial technical stakeholders can ensure that any proposals developed are legally and practically feasible. In addition, as the

[1] All references to Kosovo shall be understood as being in full compliance with Security Council resolution 1244 (1999).

political climate has been a key factor hindering regional judicial cooperation, building trust will depend on avoiding the appearance of undue political influence.

3. Bosnia and Herzegovina

47. The Office of the Prosecutor is pleased to note that, during the reporting period, positive trends in national prosecutions continued in Bosnia and Herzegovina. The Prosecutor's Office of Bosnia and Herzegovina continued to investigate and prosecute appropriate complex cases in accordance with the National War Crimes Strategy, including cases involving senior- and mid-level suspects and cases concerning conflict-related sexual violence. Among the 25 indictments filed by the Prosecutor's Office of Bosnia and Herzegovina during the reporting period, a few examples illustrate the progress being achieved in processing war crimes cases. In the *Džananović et al.* case, three accused are charged with the imprisonment, murder, rape, torture and inhumane treatment of Serb civilians in Sarajevo. In the *Matuzović et al.* case, nine accused are charged with the crimes against humanity of murder, imprisonment, torture, rape and other inhumane acts committed during a widespread and systematic attack against the Serb civilian population of Orašje municipality. In the *Taranjac et al.* case, nine accused, including the President of the Ljubija Crisis Staff and the deputy commander of the Sixth Ljubija Battalion, are charged with participating in a joint criminal enterprise to commit crimes against humanity against Bosniak and Croatian civilians.

48. There remains a large backlog of war crimes cases in Bosnia and Herzegovina. Despite progress over the last decade, approximately 1,200 cases involving 5,000 suspects still need to be processed by authorities in Bosnia and Herzegovina, including approximately 340 complex cases. Many of the cases have a regional dimension and will require regional judicial cooperation to conduct investigations and prosecutions.

49. Nevertheless, it should be recognized that the Prosecutor's Office of Bosnia and Herzegovina is taking important steps towards meeting the public's expectations for expeditious and effective justice for war crimes. The results demonstrate again that national prosecutions, appropriately supported by international partners, can meaningfully advance accountability, including in the most complex cases. The Office of the Prosecutor of the Mechanism will continue working with the Prosecutor's Office of Bosnia and Herzegovina and other prosecution offices in Bosnia and Herzegovina to achieve further progress in accountability for war crimes. That work will include the remaining so-called "rules of the road" cases initially reviewed by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, which have been jointly identified as an important priority for action.

4. Croatia

50. The Office of the Prosecutor is able to report some progress during the reporting period: Croatian authorities committed to addressing some outstanding issues in regional judicial cooperation. Separately, however, authorities in Bosnia and Herzegovina and Serbia have identified a larger number of regional judicial cooperation issues with Croatia that must now be dealt with.

51. As previously reported, in 2015 the Government of Croatia adopted a conclusion not to provide regional judicial cooperation in certain cases involving Croatian nationals accused of war crimes and crimes against humanity. As a result, important investigations and prosecutions of four category II cases came to a standstill. Through engagement with the Ministry of Justice and the State Attorney's Office of Croatia, one of the four cases was accepted for investigation by Croatia in

June 2016. During the reporting period it was agreed that a second would be accepted. The State Attorney's Office should ensure that the agreement is translated into concrete action as soon as possible.

52. The Office of the Prosecutor appreciates the willingness of Croatian authorities to discuss those issues and find solutions to ensure that the Croatian judiciary is able to investigate and prosecute cases against Croatian nationals accused of war crimes and crimes against humanity. As demonstrated by the agreements that have so far been reached, Croatian authorities understand that impunity for crimes committed by Croatian nationals residing in Croatia is unacceptable, and that Croatia has an obligation to provide judicial cooperation to ensure that the justice process can move forward.

53. Separately, it has now become clear that the four category II cases at issue are only a small subset of a larger number of war crimes cases concerning Croatian nationals and evidence in Croatia for which Croatia has not yet provided judicial cooperation. Currently, 16 cases are pending before the Prosecutor's Office of Bosnia and Herzegovina that require judicial cooperation with Croatia to complete investigations or begin trial proceedings. Representative of those cases is that against Ivan Ančić, who currently resides in Croatia and was indicted by the Court of Bosnia and Herzegovina in 2014. Similar challenges have been identified by entity-level prosecution services in Bosnia and Herzegovina, where it has been reported that at least 53 cases are pending owing to the lack of judicial cooperation from Croatia. Finally, Serbian authorities report that nearly two thirds of the requests for assistance directed to Croatian authorities have not been positively answered.

54. The Office of the Prosecutor is certain that any challenges in concrete cases are capable of being positively resolved to enable prosecutions in Croatia to proceed. The Office urges the State Attorney's Office of Croatia to directly engage as soon as possible with counterparts in Bosnia and Herzegovina and Serbia to identify solutions and agree on next steps. At the same time, the Office of the Prosecutor calls upon the respective Ministries of Justice to immediately initiate discussions, jointly with prosecutors, to identify and address any systemic barriers to effective regional judicial cooperation in matters relating to war crimes. Careful consideration should be given to ensure that national law enables and supports, rather than hinders and obstructs, regional judicial cooperation. Finally, the Office of the Prosecutor continues to urge the Government of Croatia to withdraw the 2015 conclusion, which constitutes unwarranted political interference in the justice process and from all information available has had a severely negative impact on cooperation.

5. Serbia

55. The Office of the Prosecutor regrets to report that the immediate outlook for meaningful progress in war crimes justice in Serbia is negative. Positive results in war crimes investigations and prosecutions remain very limited, with no significant change in the adverse trends that have crystallized over the last few years. Commitments to improve the situation remain largely unfulfilled. Decisive steps, at all levels, are needed to begin moving in a more positive direction.

56. As reported in the ninth progress report of the Mechanism (S/2016/975), in October 2016 Serbian authorities made a number of commitments to demonstrate immediate action on issues previously raised by the Office of the Prosecutor. Unfortunately, those commitments were not honoured. As the President of the International Tribunal for the Former Yugoslavia again reports in his twenty-seventh completion strategy report (S/2017/436), Serbia remains in a state of non-cooperation and has still not transferred to the Tribunal's custody three indictees for whom arrest warrants were issued in January 2015. Similarly, the *Djukić* case, raised in previous

reports of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism, remains unresolved, with no indications to justify optimism that Serbia, in accordance with European standards, will enforce the war crime conviction entered by the Court of Bosnia and Herzegovina. While Serbian authorities committed to fill the post of Chief War Crimes Prosecutor before the end of 2016, a successful candidate was not appointed until 6 months later, 15 months after the previous chief prosecutor retired. Crucial time has therefore been lost. In addition, deputy war crimes prosecutor positions remain unfilled, and promised steps to increase staffing in the Serbian War Crimes Prosecutor's Office have not yet been realized.

57. Overall, the progress made by the Serbian War Crimes Prosecutor's Office remains unsatisfactory in the light of the ongoing, widespread impunity for war crimes, crimes against humanity and genocide committed by Serbian nationals residing in Serbia. In recent years, there have been some positive results. The largest and most complex cases brought by the Serbian War Crimes Prosecutor's Office were transferred from the International Tribunal for the Former Yugoslavia and from Bosnia and Herzegovina and Croatia, or were the result of joint investigations, demonstrating that Serbian prosecutors are capable of successfully prosecuting complex cases. Nevertheless, there is little evident progress in long-standing investigations conducted by the Serbian War Crimes Prosecutor's Office alone. Moreover, the number of prosecutions initiated in the past year remains very low in absolute terms, while negative trends evident since 2010 across a number of important metrics, including new cases initiated, the number of persons indicted, the complexity of cases and the number of victims per case, persist. The number of acquittals based on lack of evidence to support the indictment suggests there are ongoing quality control issues in the work of the War Crimes Prosecutor's Office.

58. From a qualitative perspective, impunity for many well-established crimes remains the norm in Serbia. Only one prosecution has been initiated for crimes committed during the Srebrenica genocide, in which only war crimes, rather than genocide, have been charged. In addition, accountability for war crimes and crimes against humanity committed by Serbian military and police forces in 1999 is extremely limited. To date, no senior-level and only a very small number of mid-level officials have been indicted and prosecuted for the crimes committed, notwithstanding the confirmed findings of the International Tribunal for the Former Yugoslavia that senior members of the Serbian political, military and police leadership adopted and implemented a common criminal plan to wage a campaign of terror against the Kosovo Albanian civilian population. More generally, nearly all accused across all cases are low-level direct perpetrators, and the Serbian War Crimes Prosecutor's Office has not yet issued a single indictment against a senior-level official.

59. It is concerning that, in public reports and discussions, Serbian authorities do not appear to recognize the limited results that have been achieved, the significant delays in implementing commitments that have been undertaken and the substantial accountability gaps that remain to be addressed. Stakeholders have expressed legitimate criticisms of the reports issued by the War Crimes Prosecutor's Office. For example, statistics provided on the number of victims of crimes in cases prosecuted by the War Crimes Prosecutor's Office have been significantly inflated. Similarly, reports on war crimes justice by Serbian authorities present a picture of successful progress on almost all elements of its national war crimes strategy, and its action plan on chapter 23 (judiciary and fundamental rights) of the European Union aquis, that is difficult to harmonize with reality. If the relatively limited results over the past year are presented and accepted as real progress in fulfilling the State's commitment to meaningful war crimes justice, the strength of that commitment will inevitably be questioned.

60. While significant efforts will be required to move war crimes justice in Serbia in a more positive direction, the Office of the Prosecutor of the Mechanism welcomes the appointment of the new Chief War Crimes Prosecutor and looks forward to working closely with her. The Serbian War Crimes Prosecutor's Office must meet high expectations for meaningful justice, and the Office of the Prosecutor is committed to providing support and assistance.

C. Access to information and evidence

61. With the closure of the International Criminal Tribunal for Rwanda and the approaching completion of the mandate of the International Tribunal for the Former Yugoslavia, further accountability for crimes committed in Rwanda and the former Yugoslavia now depends on national justice sectors. The Office of the Prosecutor of the Mechanism seeks to support national judicial authorities prosecuting those crimes, particularly through the provision of access to evidence and information.

62. The Office possesses extensive evidence and invaluable expertise that can greatly benefit national justice efforts. The evidence collection related to the crimes committed in the former Yugoslavia comprises more than nine million pages of documents and thousands of hours of audio and video records, most of which were not introduced into evidence in any proceeding of the Tribunal and are therefore only available from the Office of the Prosecutor of the Mechanism. The evidence collection related to the crimes committed in Rwanda comprises more than one million pages of documents. The Office's staff have unique insight into the crimes and the cases that can assist national prosecutors in preparing and proving their indictments.

63. During the reporting period, the Office of the Prosecutor continued to receive a high volume of requests for assistance from national judiciaries and international organizations.

64. In relation to Rwanda, the Office of the Prosecutor received four requests for assistance from four Member States. All requests have been processed. In total, the Office handed over 16,157 pages of documentation.

65. In relation to the former Yugoslavia, the Office of the Prosecutor received 79 requests for assistance from seven Member States and three international organizations. Fifty-two requests for assistance were submitted by authorities in Bosnia and Herzegovina, three were from Croatia, eight were from Montenegro and one was from Serbia. In total, the Office handed over 1,100 documents, comprising more than 37,500 pages, and 32 audio and videorecords. In addition, the Office filed submissions in relation to 22 requests for variation of witness protective measures, all of which concerned proceedings in Bosnia and Herzegovina.

66. The Office of the Prosecutor is pleased to report that, during the reporting period, the joint European Union-Mechanism training project for national prosecutors and young professionals recommenced. Liaison prosecutors from Bosnia and Herzegovina, Croatia and Serbia have begun or will soon begin assignments with the Office of the Prosecutor in order to support the transfer of evidence and expertise to their home offices and to national prosecutions of war crimes committed in the former Yugoslavia. Similarly, young professionals from those countries have begun or will soon begin internships with the Office of the Prosecutor that support ongoing Mechanism trials and appeals. The Office of the Prosecutor is grateful to the European Union for its consistent support for this important project, and for recognizing the ongoing need to build capacities in national justice sectors.

D. Capacity-building

67. During the reporting period, the Office of the Prosecutor continued its efforts, within existing resources, to build capacity in national judiciaries prosecuting war crimes. The Office's capacity-building efforts are focused on the Great Lakes region and East Africa, the former Yugoslavia and global initiatives. Strengthening national capacities supports the principle of complementarity and national ownership of post-conflict accountability.

68. During the reporting period, the Office of the Prosecutor of the Mechanism focused its capacity-building efforts on strengthening peer-to-peer engagement with criminal justice professionals from around the world on the topic of prosecuting conflict-related sexual violence. Those activities build upon the book entitled *Prosecuting Conflict-related Sexual Violence at the ICTY*, which was produced by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and is an important component of the Tribunal's legacy. The programmes were organized under the auspices of the Prosecuting Conflict-Related Sexual Violence Network, set up through the International Association of Prosecutors and supported by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism.

69. In December 2016, Office staff conducted in Nuremberg, Germany, a peer-to-peer discussion on conflict-related sexual violence with practitioners from the Netherlands, Rwanda and Uganda, as well as with current and former prosecutors from the International Criminal Court and the International Tribunal for the Former Yugoslavia and an academic expert. Critically, to ensure the sustainability of those discussions, follow-up engagement is being pursued through the Prosecuting Conflict-Related Sexual Violence Network, including the provision of key legal precedents to facilitate national prosecutions.

70. Reflecting the Office's developed expertise on that vital issue, in February 2017 Office staff participated in an expert mission to Bogotá, under the auspices of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), to advise on the integration of gender perspectives in the planned transitional justice process in Colombia. The discussions underscored the importance of utilizing existing networks as a means to access global experience and lessons learned in prosecuting conflict-related sexual violence.

71. In addition to its work fostering capacity-building through peer-to-peer activities, the Office of the Prosecutor of the Mechanism and the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia will jointly publish the book entitled *Prosecuting Conflict-related Sexual Violence at the ICTY* in the Bosnian/Croatian/Serbian language, which will be launched during the upcoming International Tribunal for the Former Yugoslavia legacy conference in Sarajevo in June 2017. The Office of the Prosecutor of the Mechanism is also continuing its efforts to develop a complementary training program to help teach practitioners in the former Yugoslavia and elsewhere the key insights and messages of the book.

72. Finally, in November 2016, the Office trained members of the Special State Prosecutor's Office of Montenegro in the use of the Mechanism's remote access system as part of efforts to support the implementation of the Montenegrin war crimes prosecution strategy.

73. Within the limits of its operational capacity and existing resources, the Office of the Prosecutor will continue to engage with training providers and donors to ensure that appropriate practical training on investigative and prosecutorial

techniques in war crimes justice is made available. The Office expresses its deep gratitude to partners, including the International Association of Prosecutors, the Nuremberg Principles Academy, the Organization for Security and Cooperation in Europe and the Government of Switzerland for providing financial, logistical and other support to enable the Office's capacity-building and training efforts.

E. Missing persons and victim compensation

74. In the Prosecutor's meetings with victims associations, the lack of information concerning missing family members continues to be consistently identified as one of the most important outstanding issues. The search for and exhumation of mass graves and the subsequent identification of the remains need to be accelerated, as it is essential for surviving family members and fundamental to reconciliation in the former Yugoslavia and Rwanda. Victims from all sides of the conflicts must be identified.

75. The Office of the Prosecutor also encourages its national counterparts to actively work within the existing legal frameworks to incorporate victim compensation claims into criminal trial proceedings where possible. Procedures should be streamlined to assist war crimes victims in obtaining redress and to discourage the imposition of unnecessary burdens upon the victims.

V. Other residual functions

76. During the reporting period, the Office of the Prosecutor continued to perform its responsibilities in respect of other residual functions, namely protection of victims and witnesses, contempt of court and false testimony, enforcement of sentences, review of judgments and management of records and archives.

77. As previously reported, the volume of litigation arising out of completed cases in the Mechanism continues to be higher than anticipated. During the reporting period, the Office of the Prosecutor responded to a large number of requests for variation of protective measures and motions for access to case files. The Office also continued to investigate and litigate a review proceeding at the Arusha branch. The Office of the Prosecutor continued to provide information when invited in relation to the enforcement of sentences of persons convicted by the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. Those developments put strain on the Office's limited resources, particularly at the Arusha branch. The Office was nevertheless able to make sufficient resources available, particularly through its "one office" policy.

78. The Office of the Prosecutor has proposed two amendments to the Rules of Procedure and Evidence in relation to the enforcement of sentences, the protection of witnesses and assistance to national jurisdictions. First, the Office has proposed the amendment of rule 151 concerning standards for granting pardon, commutation of sentence or early release. Second, the Office has proposed the amendment of rule 86 (I), concerning variation of witness protection measures by national judicial authorities, to establish a "security-based" regime instead of the current "consent-based" regime.

79. Consistent with Security Council resolution 1966 (2010) and article 6 of the transitional arrangements, during the reporting period the Office of the Prosecutor of the Mechanism continued the coordinated transition of so-called "other functions" from the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia.

VI. Management

A. Overview

80. The Office of the Prosecutor is committed to managing its staff and resources in line with the Security Council's instructions that the Mechanism be a small, temporary and efficient structure. The Office continues to be guided by the Security Council's views and requests as set forth in, inter alia, paragraphs 18, 19 and 20 of resolution 2256 (2015).

81. An important component of the Office's efforts in that respect is the "one office" approach to integrate the staff and resources of the Offices of the Prosecutor of the Mechanism and the International Tribunal for the Former Yugoslavia for the period of their coexistence. Under the policy, all staff of the Offices of the Prosecutor of both bodies are available to "double-hat" so they can be flexibly assigned to work either for the Mechanism or the Tribunal, depending on operational requirements and their case-related knowledge. During the reporting period, the staff of the Office of the Prosecutor of the Mechanism assisted the Office of the Prosecutor of the Tribunal in meeting its obligations in the *Mladić* and *Prlić et al.* cases, while the staff of the Office of the Prosecutor of the Tribunal assisted the Office of the Prosecutor of the Mechanism in relation to the *Karadžić* and *Šešelj* appeals and the *Stanišić and Simatović* trial.

82. The Office of the Prosecutor of the Mechanism notes the projections for the duration of Mechanism functions prepared by the President of the Mechanism and provided in his report. In relation to trial and appeal activities, the Office is committed to continuing to meet all deadlines imposed, and will further endeavour to explore all reasonable options within its control to expedite the completion of that work.

B. Audit reports

83. The Office of Internal Oversight Services (OIOS), in its report on assistance to national jurisdictions dated 10 November 2015 (report No. 2015/137, available on the OIOS website), recommended that the Office of the Prosecutor, in conjunction with the Information Technology Services Section and the Archives and Records Section, should develop a consolidated, comprehensive database for managing requests for assistance received from national jurisdictions. The Office accepted the recommendation and implemented an appropriate solution. As previously anticipated, the recommendation was closed at the end of 2016. There are no other outstanding audit recommendations for the Office at the present time.

VII. Conclusion

84. During the reporting period, the Office of the Prosecutor engaged in intensive efforts to locate and arrest the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda, and continued its efforts to review, reform and improve its tracking activities. The Office of the Prosecutor underscores its commitment to arresting the remaining fugitives as soon as possible. State cooperation will be essential to achieving that goal, and the Office appreciates the support already being provided.

85. The Office of the Prosecutor continued to litigate one trial and two appeals before the Mechanism, all of which were transferred from the International Tribunal

for the Former Yugoslavia in accordance with the statute of the Mechanism and the transitional arrangements. In addition to the trial and appeal activity in The Hague, at both branches the Office processed a high volume of other litigation arising out of completed cases. Using the "one office" approach, the Office will continue to allocate and manage its resources flexibly in order to comply with all imposed deadlines.

86. Significant challenges remain with respect to the national prosecution of war crimes in the States of the former Yugoslavia and in Rwanda. Regarding the national prosecution of war crimes committed in Rwanda, while there has been clear progress in the cases referred to Rwanda, cases referred to France are still pending nearly 10 years after the original referrals. Regarding the national prosecution of war crimes committed in the former Yugoslavia, the Prosecutor's Office of Bosnia and Herzegovina continued to achieve positive results, while there has been some progress, but also a large number of outstanding issues, in Croatia. In Serbia, the immediate outlook for meaningful progress in war crimes justice in Serbia is negative. As the International Tribunal for the Former Yugoslavia nears the completion of its mandate, the ongoing, widespread denial of crimes and non-acceptance of the facts established in its judgments should be regarded as a matter of acute concern having real consequences for reconciliation and stability in the Western Balkans today.

87. In all of its endeavours, the Office of the Prosecutor relies upon and gratefully acknowledges the support of the international community and especially that of the Security Council of the United Nations.